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THIRD AND FOURTH

ANNUAL REPORTS

OF THE

State Board of Land Commissioners

OF THE

STATE OF MONTANA

TO HIS EXCELLENCY:

JOHN E. RICKARDS

GOVERNOR OF MONTANA

DECEMBER 1, 1893-4

HELENA, MONTANA
STATE PUBLISHING COMPANY
PRINTERS, BINDERS
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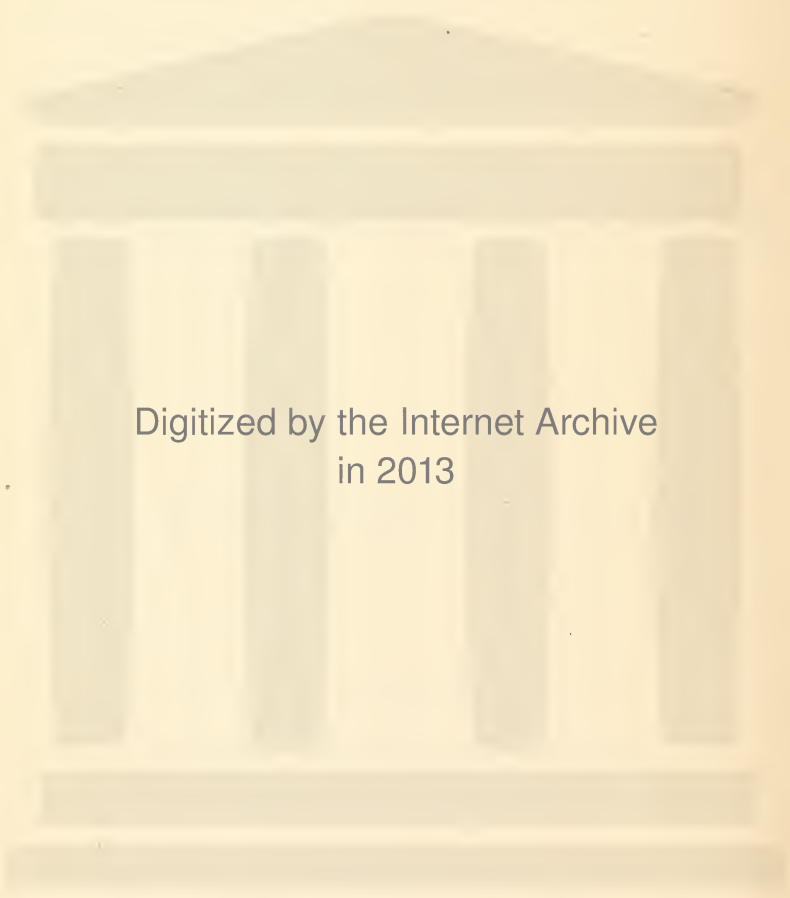
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THIRD ANNUAL REPORT

OF THE

State Board of Land Commissioners

OFFICE STATE BOARD LAND COMMISSIONERS, }
HELENA, MONTANA, December 1, 1893. }

TO HIS EXCELLENCY, J. E. RICKARDS, Governor of Montana.

SIR—In accordance with the provisions of Section 48 of the "Act to Provide for the Selection, Location, Appraisal, Sale and Leasing of State Lands," we have the honor to submit the following report of the business transacted by this Board for the year ending Nov. 30, 1893.

Fifty-two meetings of the Board have been held, at which a large variety of important subjects have been discussed and action has been taken. The individual members of the Board have realized the responsibilities connected with the work of this Department, and have given it their most careful personal attention. Every application for sale or lease of state lands has been thoroughly investigated, and many applications have been rejected, where the best interests of the state seemed to the Board to be conserved thereby. Four leases have been cancelled for violations of the terms of the contract by the lessees. The timber interests have been watched with especial care, and we would call your attention to the account of what has been done in that direction, as shown on pages —.

FINANCIAL STATEMENT.

The following amounts have been received at this office during the year, for the sale and leasing of state lands, and turned in to the state treasurer:

School fund, principal.....	\$10,754 14
School fund, interest.....	9,701 18
University fund, interest.....	4,271 36
Public buildings fund, principal.....	706 83
Public buildings, interest.....	626 34
State Normal school fund, interest.....	568 00
Total	<u>\$26,627 85</u>

The appended statement is taken from the forthcoming annual report of the State Treasurer, and shows the condition of the funds belonging to the various educational institutions of the State:

UNIVERSITY FUND, INTEREST.

Cash on hand Dec. 1, 1892.....		\$5,221 96
Receipts during the year 1893.....		4,271 36
		\$9,493 32
Invested in State warrants by order Bd. Land Com..	\$8,468 00	
Balance cash on hand Dec. 1, 1893.....	1,025 32	\$9,493 32

PUBLIC BUILDING FUND, PRINCIPAL

Cash on hand Dec. 1, 1892.....		\$2,440 00
Receipts during the year 1893.....		1,094 77
		\$3,534 77
Transferred to Public Building Fund, int. account..	\$ 715 94	
Invested in State warrants by order Bd. Land Com..	2,272 86	
Cash on hand Dec. 1, 1893.....	545 97	\$3,534 77

PUBLIC BUILDING FUND, INTEREST.

Transferred from Public Building Fund, principal (receipts 1892, \$328. Receipts 1893, \$387).....	\$715 94
Receipts during the year 1893.....	238 40
	\$954 34
Cash on hand Dec. 1, 1893.....	\$954.34

SCHOOL FUND, PRINCIPAL.

Cash on hand Dec. 1, 1892.....		\$31,261 45
Fergus county bonds on hand Dec. 1, 1892....		20,000 00
Craig school district bonds on hand Dec. 1, 1892....		1,600 00
Receipts from sale of lands during year 1893.....		10,744 14
Receipts from Treas. U. S. 5 per cent sale of lands during 1892.....		11,925 71
Transferred from school fund interest account, error in entry.....		10 00
Transferred from escheated estates account estate P. Foley.....		96 30
Total to account for.....		\$75,638 20
Amount now invested in State warrants.....	\$48,012 47	
Amount now invested in Fergus County bonds....	20,000 00	
Amount now invested in Craig school dist. bonds..	1,600 60	
Balance cash on hand Dec. 1, 1893.....	6,025 13	
Total accounted for.....		\$75,638 20

SCHOOL FUND, INTEREST.

Cash on hand Dec. 1, 1892.....	\$ 6,377 07
Receipts during the year 1893 from leases.....	9,711 18
Receipts during the year 1893 interest on Fergus County bonds.....	1,200 00
Receipts during the year 1893 interest on Craig school bonds.....	105 00
Receipts during the year 1893 interest on State war- rants.....	174 66
Total to account for.....	\$17,567 91
Invested in State warrants by order Bd. Land Com.	\$16,994 30
Transferred to school fund, principal, error in entry	10 00
Refund to D. N. Williams and B. H. Wilkinson by order Board Land Commissioners.....	120 00
Balance cash on hand Dec. 1, 1893.....	443 61
Total accounted for.....	\$ 17,567 91

STATE NORMAL SCHOOL FUND, INTEREST.

Cash on hand Dec. 1, 1892.....	\$ 536 00
Receipts during the year 1893.....	568 00
	\$1,104 00
Cash on hand Dec. 1, 1893.....	\$1,104 00

SALE OF STATE LANDS.

In accordance with the provisions of Sections 20 and 21, sales were held during the year at the county seats of the various counties in which lands were situated, as follows:

Lewis and Clarke, at Helena.....	July 25th
Gallatin, at Bozeman.....	July 28th
Missoula, at Missoula.....	Aug. 2nd
Granite, at Stevensville.....	Aug. 4th
Cascade, at Great Falls.....	Aug. 11th

By these public offerings, all the appraised lands belonging to the State (except in a few instances where lands had been leased before being advertised) are now open for sale and lease.

APPRAISEMENT.

As pointed out in the report for 1892, the present method of appraising State lands has proved to be altogether too expensive and cumbersome, and a bill was prepared and introduced in the Third Legislative Assembly, providing that the State Land Agent should have authority to appraise lands at the time of the selection of the same. This would save to the State many thousands of dollars, and result in a much more accurate and expeditious appraisal of the State lands than by the present

method. The Legislature failed to pass the bill, and therefore the Board has not felt justified in having any more lands appraised for the present. Another bill, similar to the one introduced this year, will be presented for the consideration of the next Legislative Assembly, and it is hoped that it will become law.

The total number of acres leased during the year ending Nov. 30, 1893, is 7,760.01, yielding a revenue to the State of \$2,279.80. The total number of acres leased from the organization of the board to the present time is 33,056.86, distributed among the various counties as follows:

	Acres.
Missoula county.....	1,880.
Ravalli county.....	1,360.
Cascade county.....	2,111.60
Lewis and Clarke county.....	11,840.
Gallatin county.....	7,040.
Flathead county.....	8,824.26
Total.....	33,055.86

The total number of acres sold during the year is 480. The total number of acres sold from the organization of the board to date is 5001.98, distributed among the various counties as follow:

	Acres.
Gallatin county.....	4,121.98
Cascade county.....	320.
Lewis and Clarke county.....	560.
	5,001.98

It will thus be seen that the State has leased more than six times as many acres of State lands as it has sold, and it is probable that this ratio will be maintained for many years to come. This is owing to a provision of the Enabling Act, which states that no land granted by the United States to the State of Montana shall be sold for less than ten dollars per acre. Only in exceptional cases can land be found in this State which will bring the minimum price allowed. This provision is undoubtedly a protection to the future interests of the State, though in certain cases it works hardship on those who are prepared to purchase State lands at appraised valuations.

REQUESTS FOR SURVEYS.

The following correspondence relating to the survey of unsurveyed lands in the State of Montana explains itself:

HELENA, MONT., Jan. 13, 1893.

HON. GEORGE O. EATON,

United States Surveyor General, Helena, Mont.

DEAR SIR: In addition to requests heretofore made by this Board for the survey of unsurveyed lands within the limits of the State of Montana, we have the honor to request that the following described lands be surveyed at as early a date as possible, in order that the State may make selections thereof, to apply on the grants made to the State of Montana

by Act of Congress approved Feb. 22, 1889, namely: All that portion of Missoula county lying in the valley on the North Fork of the Flathead River, between the recently surveyed townships 34 North, Range 20 and 21 West, and the international boundary line.

Your early attention to this matter will greatly oblige us. We have the honor to be,

Very respectfully,

[Signed]

J. E. RICKARDS, President.

E. A. STEERE, Secretary.

HELENA, MONT., April 15, 1893.

HON. GEORGE O. EATON,

United States Surveyor General, Helena, Mont.

DEAR SIR: On January 13, 1893, this Board addressed a request to you for a survey of all that portion of the Flathead valley on the North Fork of the Flathead river, between the recently surveyed townships 34 North, Range 20 and 21 West, and the international boundary line. We would again respectfully request that this land be surveyed at once, as it is valuable land, and is being rapidly taken up by settlers. The State has nearly 500,000 acres of land yet to select, and a survey of this land would be of great value at this time.

Yours respectfully,

[Signed.]

J. E. RICKARDS, President.

H. J. HASKELL,

L. ROTWITT,

E. A. STEERE, Secretary.

HELENA, MONT., April 15th, 1893.

HON. GEORGE O. EATON,

United States Surveyor General, Helena, Mont.

DEAR SIR: In addition to requests heretofore made by this Board for survey of unsurveyed lands within the limits of this State, we have the honor to request that the following described lands be surveyed at as early a date as possible, in order that the State may make selection thereof, to apply on the grants made to the State of Montana by Act of Congress approved Feb. 22, 1889, namely:

Townships 33, 34, 35, 36, North, Range 1 and 2 East,

Townships 33, 34, 35, North, Range 3 East.

Townships 33, 34, 35, 36, North, Range 1, 2, 3, 4. West.

We sincerely trust that this land may be surveyed at a very early date, for the reasons set forth in our letter to you of even date.

Yours respectfully,

[Signed.]

J. E. RICKARDS, President.

H. J. HASKELL,

L. ROTWITT,

E. A. STEERE, Secretary.

DEPARTMENT OF THE INTERIOR,

OFFICE OF THE U. S. SURVEYOR GENERAL }
FOR THE DISTRICT OF MONTANA, }

HELENA, June 7, 1893.

TO THE STATE BOARD OF LAND COMMISSIONERS,

Helena, Montana,

GENTLEMEN: Making reply to your letter of April 15, 1893, in which you requested the survey of 27 townships of land in northwestern Choteau and Teton counties, to the end that the State might make selection thereof, in accordance with the provisions of the enabling act, I have the honor to state as follows:

The townships enumerated in your said letter, together with other and additional townships in that vicinity, were included in a surveying contract prepared by this office, and the same forwarded to the Hon. Commissioner of the General Land Office for his approval, such approval being necessary before the surveyors designated in the contract are authorized to take the field and begin work.

As understood by this office, such action was in full compliance and entire harmony with the regulations pertaining to the survey of such lands as might be designated in writing by the State Board of Land Commissioners, in that no evidence of settlers was specifically furnished for the townships designated by you.

This was in accordance with specific requirements contained in the annual surveying instructions for the current year, furnished for the guidance of this office, and which paragraph is as follows, viz:

"Where applications are made to you in writing by the proper state authorities for surveys of described localities or counties, for the purpose of enabling the respective states to select after survey lands granted thereto for educational and other purposes, under the provisions of the enabling act, approved February 22, 1889, you will not in such cases require any evidence of settlement on the lands, the stated applications being deemed sufficient compliance with existing law and surveying instructions."

I am now in receipt of a letter from the Hon. Commissioner acknowledging receipt of the contract and bond above referred to, and returning the same without his approval.

The following extracts from said letter referring to your honorable body are enclosed for your information, in pursuance with directions to me contained in said letter:

"The State of Montana, through the State Board, has an unquestioned right to make applications through you for the survey of lands granted thereto by the enabling act of February 22, 1889, but I am also of the opinion that the question of granting said applications is entirely discretionary with the Commissioner. As an original proposition, this office might not object to granting the application of April 15, 1893, for the survey of said townships, but as there is no provision in the act of February 22, 1889, conferring on the several state authorities specific

powers by which they shall secure the survey of any and all lands designated by them, I am disposed, in this present case at least, to exercise the scrutiny and general discretion vested in me by law and regulations with reference to applications for surveys now made by the State authorities.

I am therefore unwilling to accept the application, under date of April 15, 1893, of the State Board of Land Commissioners, for the survey of 27 townships as designated, in lieu of your compliance with the specific instructions contained in office letter "E" of February 25, 1893." * *
* * "You will notify the State authorities of the action herein taken, and of the reasons for the same."

I regret to be obliged to inform you of the action taken, the more particularly because it would seem as though there is no prospect of this contract being now approved, and the money available (and which has been reserved by me for this purpose) will lapse back into the treasury of the United States on June 30th next, if some other contract cannot be prepared between now and that time, and bearing a date earlier than that named. This latter will practically be impossible of accomplishment for the reason that there is not time to get the proper and authenticated evidences of settlement, as required by the department.

Very respectfully,

[Signed.]

GEO. O. EATON.
Surveyor General for Montana.

HELENA, MONT., June 16, 1893.

HON. GEORGE O. EATON,
United States Surveyor General, Helena, Mont.

DEAR SIR: Desiring to avail ourselves of the benefit of the act admitting Montana into the Union, whereby public lands are granted to the State for educational and other purposes, and whereas, we have been unable to find suitable unoccupied and unappropriated surveyed lands from which to make the selection, we have the honor for and on the behalf of the people of the State of Montana to request that the lands shown in the appended statement be surveyed at the earliest practicable moment the whole of which will hereafter be selected under prescribed departmental regulations to satisfy the grant of the United States to Montana educational and other purposes; that all the applications so made as aforesaid for such surveys were approved by the Honorable Commissioner of the General Land Office, and contracts were thereafter awarded for such surveys, that in pursuance thereof the same is being surveyed, that since the date of the approval of the application for surveys numerous persons are settling upon said lands, claiming the right to establish homes thereon and to fell and remove the timber.

Under the foregoing premises and statement of facts we contend that the legal effect of our application for surveys operates as a withdrawal of such lands from settlement; in other words, we sustain the same relations to these lands under the grant as a settler does who occupies the same as a home and asks a survey thereof for the purpose of perfecting his title.

We submit that this is an equitable construction and that any other construction would defeat the grant to the State. We assert no claim to any portion of the land applied for upon which it shall be found settlement was made prior to our application, but we claim with confidence that if the surveys progress and it shall be determined that no right of the State attaches until the surveys are approved as well as the selections, that we will lose the benefit of our superior vigilance in procuring the surveys, and this means the loss of the entire grant to the State.

We therefore ask at this time for a construction of the law and the legal effect of the applications already made. Our Land Agent is in the field viewing and reporting upon available selections, at great expense to the State, and it therefore becomes a matter of great concern to us to know the effect of our action.

With great respect,

ALEX. C. BOTKIN, Acting President,
H. J. HASKELL,
L. ROTWITT.

The letter from the U. S. Surveyor General, dated June 7, 1893, was read at a meeting of the board, June 10, 1893. It was voted that the Governor be requested to proceed to Washington and consult with the Honorable Secretary of the Interior in the matter of an appeal from the decision of the Honorable Commissioner of the General Land Office.

In accordance with this vote Governor Rickards, President of the State Board of Land Commissioners, left for Washington on the evening of June 10, and arrived on the 14th. Under date of the 15th a telegram was received at this office from Governor Rickards, asking how much, approximately, the State would select in the twenty-seven townships.

The Board directed the clerk to reply that they would select of the twenty-seven townships 250,000 acres, and more if available.

On June 22nd the Governor filed with the Commissioner of the General Land Office the following statement:

WASHINGTON, D. C., June 22. 1893.

THE HONORABLE COMMISSIONER, GENERAL LAND OFFICE:

SIR:—I am authorized by the State Board of Land Commissioners of Montana to say that if the application for survey of twenty-seven townships in Choteau and Teton counties, known as contract No. 285 with Angus McGillvray and Albert B. Knight, is granted, we will select 150,000 acres, and more if available.

This action was taken at a meeting of the Board, held at the capital at Helena, June 16th, 1893.

Yours Respectfully,

(Signed.)

J. E. RICKARDS,

Governor and President of the State Board of Land Commissioners.

Governor Rickards also found that papers were in the hands of the Honorable Secretary of the Interior, awaiting his signature, disallowing the request for the survey of the seven townships in the Flathead country, asked for by our letter to the U. S. Surveyor General of the district of Montana, under date of January 13th, 1893.

As a result of the foregoing correspondence, and after many personal interviews with the Honorable Secretary of the Interior, the Honorable Commissioner of the General Land Office and his assistant, the Secretary of the Interior signed an order for the survey of the seven townships in Flathead, and the Commissioner receded from his original position, and granted the contract for the survey of the twenty-seven townships, with the proviso that in this and all future requests for surveys, the State should specify approximately how much land it would select of the land proposed to be surveyed.

DEPARTMENT OF THE INTERIOR, }
WASHINGTON, June 17, 1893. }

THE COMMISSIONER OF THE GENERAL LAND OFFICE:

SIR:—I am in receipt of your letter of April 26, 1893, in reply to Departmental letter of April 14th, in relation to the bid of James Keerl and C. S. Hobbs for the survey of seven townships situated on both sides of the North Fork of the Flathead River and immediately south of the International Boundary Line, Montana.

By the 19th Section of the Act of February 22, 1889, making the grants to the states, it is provided:

That all lands granted in quantity, or as indemnity by this Act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved and unappropriated public lands of the United States, within the limits of the respective states entitled thereto.

It thus appears that selections can not be made until the lands are surveyed, and by Act of Congress those who settle prior to the return of the plat of survey to the local land office are protected; hence to refuse to make surveys of any townships except those suitable to settlement and agriculture, and which are occupied in whole or in part by actual settlers, would be a long step toward defeating the very object which Congress has so plainly indicated, viz.: to enable the State to obtain the lands granted to her.

The State may lawfully claim any unappropriated public land, non-mineral in character, which may be entered under our public land laws, and it is not the desire nor the intention of this Department to interpose any obstruction to her lawful efforts to obtain the satisfaction of her grants; all that can be reasonably required is that she shall be on equal footing with her citizens in the matter of obtaining public lands to which she is entitled.

I am therefore of the opinion that when the State makes application for the survey of a township of public land, non-mineral in character, and which is subject to entry within the range and progress of settlement, even though there are no settlers thereon, and the land is not adapted to agri-culture, that application should be granted; care, how-

ever, should be exercised that no undue proportion of the amount apportioned to a state be used for the survey of townships applied for by the State authorities, to the exclusion of the survey of townships occupied by settlers.

Applications for the survey of isolated townships, distant from the range and progress of settlement, for the purpose of obtaining the valuable timber thereon as a rule should not be granted, and the application for the survey of the same isolated townships, which has formed the basis of this correspondence, should be rejected but for the fact that there is not sufficient time between this and the close of the fiscal year to make this amount available for other surveys.

In view of the fact that this appropriation would lapse if not expended upon this application, it is hereby approved.

The Surveyor General should submit all applications for survey at the earliest moment practicable, so that the appropriation may be properly apportioned, in accordance with the views expressed in this letter, and when applications are made on behalf of the State, not joined in by the settlers, it should be required to state approximately how much land it will probably select from the area covered by each application, in order that you may exercise discretion in granting its application.

You are authorized to amend the existing annual surveying instructions governing applications for surveys made by the State authorities, under their respective enabling Acts, to conform to the suggestions herein contained.

Very Respectfully,

[Signed.]

HOKE SMITH, Secretary.

PROTECTION OF TIMBER.

The Board has watched with jealous care over the timber interests of the State. The following reports and extracts from the records of the Board will give an idea of their efforts and of the good results obtained. We would also call attention to the report of the State Land Agent on this subject; he has been very active in protecting the timber of the State from depredation and waste:

HELENA, Mont., March 31, 1893.

HON. J. E. RICKARDS,

President State Board Land Commissioners,

Helena, Montana.

DEAR SIR:—I beg leave to report that in accordance with instructions issued to me on March 28, 1893, I went to Section 36, Township 13 North, Range 3 West, and seized 2,000 saw logs (more or less), all of which had been cut from said Section 36. and all but about 100 were yarded out on the west bank of the Missouri River. I caused said logs to be branded with the letter "M," one and one-half inches in diameter, countersunk with red paint, and placed Mr. Ole Synness in charge, with instructions to protect the same by all legal means, and in case of further trespass on said section to at once report to the Attorney General;

* * * I am confident that the logs seized will scale something over 200,000 feet. * * *

[Signed.]

R. O. HICKMAN, State Land Agent

The matter was settled shortly afterwards by the payment of \$180.00 by the parties from whom the seizure was made.

At a meeting of the Board, held April 19, 1893, the following resolution was adopted:

"WHEREAS, It appears to this Board that residents of the State of Montana have, on at least two occasions, committed trespass and other injury to the lands of the State by cutting timber thereon, and that the Board has in each case recovered from the party committing the same the amount the State was damaged thereby, and that in each of said cases the State Land Agent has seized the timber cut upon the State lands by the trespassers thereon, and held the same in his possession until the settlement was perfected; and

WHEREAS, This Board has been informed by the Attorney General that he is in possession of facts and circumstances that other parties are now cutting timber upon the lands belonging to the State, and this Board being of the opinion that prompt and immediate action should be taken in the premises, and that possession should be obtained of the timber so cut upon the public domain.

IT IS THEREFORE ORDERED, That R. O. Hickman, State Land Agent, be and is hereby instructed to take possession of any and all logs or timber that he may find cut or felled upon any land belonging to the State, unless the parties cutting the same have written authority from the Board so to do;

FURTHER ORDERED, That he mark all logs or lumber with a suitable brand, and in each and every case report his doings to the Board."

On the same date the Governor was requested by the Board to write to the Secretary of the Interior, asking whether, in issuing permits to cut timber, sections 16 and 36 and all lands which the State has asked to have surveyed have been exempted.

The State Land Agent reported, under date of April 29th, that he had examined into the depredations said to have been committed on Section 36, 10 North, 20 West, five miles north of Stevensville. He reported also that a large amount of down timber was then on Sections 24 and 36, 11 North, 20 West, and recommended that it be disposed of as soon as possible.

The following letter was received May 10th, and on account of its importance we quote it entire:

DEPARTMENT OF THE INTERIOR, }
GENERAL LAND OFFICE, }
WASHINGTON, D. C., May 4, 1893. }

STATE BOARD OF LAND COMMISSIONERS, HELENA, MONT.

GENTLEMEN—I am in receipt, by reference from the Department, of a letter from the President of your Board, J. E. Rickards, dated at Helena, Montana, April 20, 1893, inquiring as follows:

"Whether in issuing permits to cut timber in this State, you have exempted sections 16 and 36 and all other lands for the survey of which this Board has applied."

"You are advised that no public timber permits are issued covering school sections 16 and 36.

In instances in which applications for permits embrace unsurveyed lands, it is the practice of this office to require that the tracts shall be so identified as to designate, approximately, the sections in which they will lie when the official surveys are extended to cover the same. One object in requiring the land to be so identified is to enable this office to exclude from permits tracts which will hereafter lie within sections 16 and 36, or which are shown by the records of this office to be reserved for any purpose whatsoever.

In addition to this precaution it is expressly stipulated in the form of permit that the form of permit is made subject to certain conditions, restrictions and limitations; and one of the conditions so imposed reads as follows: "That in acting under this permit, no timber is to be cut or removed * * * * from any tract or tracts embraced in any reservation of whatsoever kind, created by operation of law or proclamation of the President."

In reply to your further inquiry in regard to exemption of all other lands for the survey of which this Board has applied" you are advised that the facts that an application for survey of certain tracts has been made on the part of your Board would not appear of record in this office in such a manner as to make it a matter for consideration in connection with any applications submitted for public timber permits covering the same tracts. To insure such consideration, it would be necessary for you in each instance to address a specific request to this office not to issue permits covering the tracts in question, and stating your reasons therefor in full."

Very respectfully,

[Signed.]

S. W. LAMOREUX.

Commissioner.

Accordingly, the Board made a ruling that in future, when an application was made for the survey of public lands, a copy of the application should be forwarded to the honorable Commissioner of the General Land Office, with a specific request that no permits to cut timber from the tracts specified in the application, be granted.

Under date of June 7th, the Board received a telegram from the State Land Agent to the effect that parties were cutting and selling wood belonging to the State at the Military Post at Missoula, and asking for instructions. He was advised by telegraph to lay his evidence before the County Attorney and cause the parties to be apprehended and prosecuted. On the 8th, the State Land Agent telegraphed that arrests had been made and that the parties wished to settle. He was advised to bring the parties to Helena, when the Board would give them a hearing and determine upon terms of settlement.

The case was soon afterwards settled by the payment of one hundred and fifty dollars and accrued costs.

At a meeting of the Board held June 17th it was resolved that the President instruct the Land Agent to ascertain who, if any person, had cut or removed timber from sections 24 and 36, 11 North, 20 West; that he procure all data, information and evidence possible in the case and present the same to this Board at the earliest possible date, with his recommendations in relation thereto.

At a meeting of the Board held June 24th a resolution was adopted to the effect that the State Land Agent or his assistant should, prior to August 1st, 1893, examine closely and carefully the State lands having timber thereon, situated in the counties of Missoula and Ravalli, and make a detailed report of the kind of timber and the quality thereof, said report to be placed on file in this office, and to be used with special reference to the proposed sale of lands by the State in the above named counties during the month of August proximo.

On August 17th, the Board passed an order instructing the State Land Agent to immediately seize all lumber and wood and felled trees now upon section 16, 14 North, 19 West, and to notify and warn any and all persons who may be found cutting timber thereon to desist; and to take such steps as may seem necessary for the immediate prosecution of parties committing depredation on said section.

At a meeting of the Board held Nov. 11th, a report was read from the State Land Agent, relating to the amount of sawlogs cut and hauled from section 36, 11 North, 20 West, and the amount of down timber on said section, and an estimate of the amount of standing timber fit for sawlogs, as follows:

	Feet.
Cut and hauled in winter of 1892.....	109,668
Still lying upon said section.....	516,740
Standing timber.....	3,728,448
Original quantity.....	<u>4,354,856</u>

The State Land Agent was authorized to make an offer, in settlement for logs already cut and hauled from said section, of the acceptance of one hundred and thirty-four dollars (\$134), and for the down timber five hundred and sixteen dollars (\$516), and to state further that the Board will, on acceptance of these propositions, then consider a bid for the remaining standing timber on the section.

Under date of November 15th, the Land Agent presented a report made by his assistant, of the amount of down and standing timber suitable for sawlogs on University section 24, 11 North, 20 West. The amount reported was 5,316,285 feet. The Land Agent was instructed to dispose of the down timber on this section to the best advantage possible, in connection with the sale of the timber on section 36, as per instructions of November 11th.

Lease No. 68, covering the SW $\frac{1}{4}$ of section 36, 11 N. 20 W., was cancelled by order of the Board, June 24th, for the reason that the lessee was known to have cut and removed timber from the land, in violation of the terms of the lease.

Many applications for lease have been refused on account of the existence of timber on the land applied for.

The "Act to Protect State Property," approved March 1, 1893, provides for the punishment of persons who shall wilfully injure or trespass or commit waste upon any premises, or shall damage, deface or destroy any house, improvement or other like property owned by the State. Section 2 of the Act provides that the penalties specified in the first section shall not apply to mere trespass on unclosed granted lands to the State, but shall apply to any waste or destruction thereon, or to the cut-

ting or removing of timber therefrom, or the destruction of the same. It is further provided that all moneys recovered in the nature of fines by virtue of this Act must be paid into the school fund of the State.

The "Act to Provide for the Sale of Timber Lands Belonging to the State," approved March 7, 1893, permits the Board of Land Commissioners to sell the timber on lands belonging to the State when the same is liable to waste, as provided in the first section. It provides that when timber is so liable to waste the Board may grant permits to clear such lands after full payment of the sum which the State Land Agent estimates the timber to be worth, such estimate to be approved by the Board, no timber to be sold at less than ten dollars per acre. No permit is to be granted except upon sale of timber at public auction to the highest bidder, held at the office of the Board at the State capital.

The State Land Agent shall select a log mark for each person granted a permit, and he shall scale all logs so cut and make a detailed report to the Board, showing the name of the party cutting, the description of the land cut upon, the number of logs cut and the mark thereon, the total number of feet cut and the value thereof per thousand feet, as shown by the record of his office and showing whether the timber has been cut according to the terms of the permit.

SELECTION OF STATE LANDS.

The grants of land made to the State of Montana by the Congress of the United States, as provided in the Act of February 22, 1889, entitled "An Act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," are as follows:

	Acres
School of Mines	100,000
State Normal School	100,000
Agricultural College.....	140,000
State Reform School	50,000
Deaf and Dumb Asylum	50,000
Public Buildings	182,000
Total	622,000

We give below a condensed statement of the selections made from the time of the organization of the Board to the end of the fiscal year ending November 30, 1892, and a similar statement of the selections during the present year, followed by a summary of selections to date, showing total selected for each grant and percentage of same:

Selections to Nov. 30, 1892

GRANT FOR PUBLIC BUILDINGS.

	Acres.
Nov. 11, 1891, List No. 1, Bozeman District.....	4,486.92
Sept. 5, 1892, List No. 2, Bozeman District	17,791.77
Nov. 29, 1892, List No. 1, Helena District.....	15,751.20
Nov. 29, 1892, List No. 2, Helena District.....	5,042.14
Total.....	<u>43,072.03</u>

GRANT FOR SCHOOL OF MINES.

	Acres.
Nov. 11, 1891, List No. 1, Bozeman District.....	1,277.26
June 24, 1892, List No. 1, Helena District.	10,564.82
Aug. 30, 1892, List No. 2, Helena District.....	5,106.08
Oct. 11, 1892, List No. 2, Bozeman District.....	9,184.03
Total....	<u>26,132.19</u>

GRANT FOR REFORM SCHOOL.

	Acres.
Nov. 11, 1891, List No. 1, Bozeman District.....	642.32
June 24, 1892, List No. 1, Helena District.....	5,960.
Aug. 30, 1892, List No. 2, Helena District.....	2,853.37
Oct. 11, 1892, List No. 2, Bozeman District.....	5,810.35
Total.....	<u>15,266.04</u>

GRANT FOR STATE NORMAL SCHOOL.

	Acres.
Nov. 11, 1891, List No. 1, Bozeman District.....	2,564.84
June 24, 1892, List No. 1, Helena District.....	10,205.72
Aug. 31, 1892, List No. 2, Helena District.....	5,463.65
Oct. 11, 1892, List No. 2, Bozeman District.....	4,467.06
Total.....	<u>22,701.27</u>

GRANT FOR DEAF AND DUMB ASYLUM.

	Acres.
Nov. 11, 1891, List No. 1, Bozeman District.....	640.
June 24, 1892, List No. 1, Helena District	4,960.
Aug. 31, 1892, List No. 2, Helena District.....	2,801.38
Total.....	8,401.38

GRANT FOR AGRICULTURAL COLLEGE.

	Acres.
June 24, 1892, List No. 1, Helena District	11,038.15
Aug. 31, 1892, List No. 2, Helena District.....	6,976.11
Oct. 11, 1892, List No. 1, Bozeman District.....	2,934.71
Total.....	20,948.97

Selections, Dec. 1, 1892, to Nov. 30, 1893

GRANT FOR PUBLIC BUILDINGS.

	Acres.
Jan. 20, 1893, List No. 3, Helena District.....	40.
Mar. 8, 1893, List No. 4, Helena District	80.
April 10, 1893, List No. 1, Missoula District	11,576.74
June 19, 1893, List No. 2, Missoula District	12,294.02
Aug. 19, 1893, List No. 3, Missoula District	8,392.10
Sept. 11, 1893, List No. 5, Helena District	2,444.40
Nov. 1, 1893, List No. 4, Missoula District	3,908.44
Nov. 16, 1893, List No. 6, Helena District	2,400.
Total	41,135.70

GRANT FOR SCHOOL OF MINES.

	Acres.
April 10, 1893, List No. 1, Missoula District	8,049.
June 19, 1893, List No. 2, Missoula District	7,066.08
Aug. 19, 1893, List No. 3, Missoula District	6,102.87
Nov. 1, 1893, List No. 4, Missoula District	4,333.52
Nov. 15, 1893, List No. 3, Helena District	869.15
Total	26,420.62

GRANT FOR REFORM SCHOOL.

	Acres.
April 10, 1893, List No. 1, Missoula District.....	3,146.92
June 5, 1893, List No. 3, Helena District.....	8,135.57
June 19, 1893, List No. 2, Missoula District	3,390.87
Total	<u>14,673.36</u>

GRANT FOR STATE NORMAL SCHOOL.

	Acres.
April 10, 1893, List No. 1, Missoula District.....	8,123.33
June 19, 1893, List No. 2, Missoula District.....	6,385.44
Aug. 19, 1893, List No. 3, Missoula District.....	8,645.76
Nov. 1, 1893, List No. 4, Missoula District..	5,707.08
Total	<u>28,861.61</u>

GRANT FOR DEAF AND DUMB ASYLUM.

	Acres.
April 16, 1893, List No. 1, Missoula District.....	3,681.11
June 19, 1893, List No. 2, Missoula District.....	3,482.27
Aug. 19, 1893, List No. 3, Missoula District.....	5,195.73
Nov. 11, 1893, List No. 4, Missoula District.....	3,839.93
Nov. 16, 1893, List No. 3, Helena District.....	1,520.
Total	<u>17,719.04</u>

GRANT FOR AGRICULTURAL COLLEGE.

	Acres.
April 10, 1893, List No. 1, Missoula District.....	9,516.28
June 7, 1893, List No. 2, Missoula District	5,391.26
June 19, 1893, List No. 3, Missoula District.....	9,391.63
July 24, 1893, List No. 4, Missoula District.....	2,045.49
Aug. 19, 1893, List No. 5, Missoula District.....	13,963.70
Nov. 16, 1893, List No. 3, Helena District.....	1,320.
Total	<u>41,628.36</u>

Summary

TOTAL SELECTED FOR EACH FUND TO DATE.

Grant for Public Buildings to Nov. 30, '92,	43,072.03 a.
Grant for Public Buildings to Nov. 30, '93,	41,135.70 a. 84,207.73=46.3 p. ct.
Grant for School of Mines to Nov. 30, '92,	26,132.19 a.
Grant for School of Mines to Nov. 30, '93,	26,420.62 52,552.81=52.5 p. ct.
Grant for Reform School to Nov. 30, '92,	15,266.04 a.
Grant for Reform School to Nov. 30, '93,	14,673.36 29,939.40=59.8 p. ct.
Grant for State Normal Sch to Nov. 30, '92,	22,701.27 a.
Grant for State Normal Sch. to Nov. 30, '93,	28,861.61 51,562.88=51.5 p. ct.
Grant for Deaf & Dumb Asy. to Nov. 30, '92,	8,401.38 a.
Grant for Deaf & Dumb Asy. to Nov. 30, '93,	17,719.04 26,120.42=52.2 p. ct.
Grant for Ag'ic'lt'r'l College to Nov. 30, '92,	20,948.97 a.
Grant for Ag'ic'lt'r'l College to Nov. 30, '93,	41,628.36 62,577.33=44.6 p. ct.
Total.....	306,960.57 Acres.

In addition to the above, 45,226.70 acres of University land were selected under the provisions of an Act of Congress approved February 18, 1881, (21 Stat. 326) entitled "An Act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming, for University purposes," which granted to the Territory of Montana seventy-two sections.

This land was selected as follows by the Territorial Superintendents of Public Instruction:

	Acres.
Helena District.....	34,527.61
Bozeman District.....	6,245.35
Miles City District.....	4,453.74
Total.....	45,226.70

The President of the United States approved the selections March 18, 1889. The grant was practically completed by the selection by the State Land Agent Nov. 1, 1893, of 853.08 acres in the Missoula District, giving a total of 46,079.78 acres for University purposes.

Section 2 of the Act providing for the disposal of the Fort Ellis Military Reservation (26 Stat. U. S. 747) granted to the State of Montana 640 acres for a permanent militia camp ground. For convenient reference we give below a description of the land so granted.

- SE $\frac{1}{4}$ of SE $\frac{1}{4}$, section 10, 2 S, 6 E.
- N $\frac{1}{2}$ section 15, 2 S, 6 E.
- NE $\frac{1}{4}$ of SE $\frac{1}{4}$, section 15, 2 S, 6 E.
- W $\frac{1}{2}$ of SE $\frac{1}{4}$, section 15, 2 S, 6 E.
- SW $\frac{1}{4}$, section 15, 2 S, 6 E.

A proviso to the statute above cited reads as follows: "Whenever the State shall cease to use said lands for public purposes the same shall revert to the United States."

There yet remain to be selected 315,040.43 acres, in addition to lieu lands for school lands taken by settlers before the passage of the Act of Feb. 22, 1889, and lieu lands for relinquishments made to settlers of certain selections, after investigation made by the State Land Agent.

Following is a list of relinquishments made to date:

	Acres.
From Public Buildings selections.....	280.
From Normal School selections.....	393.13
From School of Mines selections.....	240.
From Reform School selections.....	160.
From Deaf and Dumb Asylum selections....	159.93
From Agricultural College selections.....	149.88
Total.....	1,382.94

LIEU LANDS.

During the year 1891 the State Land Agent and the State Board made an estimate of the number of acres of lieu lands the State was entitled to in the Missoula Land District, when it was found that there had been taken by settlers before survey 2000.70 acres of school lands, for which the State was entitled to select other lands in lieu thereof. And it was further discovered that the State had lost school lands in the same district, because of fractional sections 16 and 36, and because of fractional townships in which sections 16 and 36, one or both, had not been surveyed, amounting to 26,393.42 acres, for which, under the terms of Sections 2275 and 2276, Revised Statutes of the United States, as amended by Act of Feb. 28, 1891, the State was granted as indemnity for lost sections 16 and 36 lands of equal acreage to those lost, to be selected anywhere within the State, making a total in the Missoula Land District of 28,397.12 acres of school indemnity lands to be selected. Of this, 26,120 acres were selected in the Bitter Root Valley. This the Register and Receiver of the land office disallowed, and claimed an improper construction of the law by the Board of Land Commissioners. From this decision the State Board appealed to the Commissioner of the General Land Office, who sustained the decision of the Register and Receiver of the Missoula Land Office. The State again appealed, and on May 12, 1893, the Secretary of the Interior rendered the following decision:

DEPARTMENT OF THE INTERIOR, }
WASHINGTON, May 12, 1893. }

THE COMMISSIONER OF THE GENERAL LAND OFFICE.

SIR—The State of Montana, by its Board of Land Commissioners, has appealed from your decision of March 29, 1892, rejecting its list No. 1, of indemnity school selections, filed in the Missoula Land Office November 19, 1891.

Error is alleged in your holding "that a township partly surveyed and partly unsurveyed on account of rugged mountains is not fractional in the sense required by section 2275, Revised Statutes, as amended by the Act of February 28, 1891."

In the list submitted for approval, the alleged cause of the deficiency in forty-six of the school sections is that they are "unsurveyed;" and in lieu of some of these unsurveyed sections, six hundred and forty acres of other lands were selected, and for others a less number of acres. In many cases the surveys were not extended over the school sections, on "account of rugged mountains."

The existing provisions authorizing selections to compensate deficiencies for school selections is found in sections 2275 and 2276 of the Revised Statutes, as amended by the Act of February 28, 1891. (26 Stat., 796).

The particular provision relied upon as authorizing the selections made upon the basis used (unsurveyed on account of rugged mountains) is found in the last clause of section 2275 as amended, which reads as follows:

"And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory to compensate deficiencies for school purposes, where sections 16 and 36 are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever."

The mere fact that sections 16 and 36 are left unsurveyed because of "rugged mountains" does not in any sense render those sections fractional in quantity or wanting from any natural cause, if actually in place.

It may be conceded that the rugged character of the mountains will render it inexpedient to extend the public surveys over such portions, and that by reason of this natural condition, the school sections may often be found of but little value; but this condition does not justify the selection and certification of other and more valuable lands in lieu of such school sections as chance to fall in a mountainous region, in the absence of any provision therefor.

The judgment appealed from is affirmed; and the papers transmitted with your letter "K" of July 19, 1892, are returned herewith.

Very respectfully,

[Signed.]

HOKE SMITH,
Secretary.

In addition to this 26,120 acres, the State Land Agent selected in 1892 in the Bitter Root Valley:

	Acres.
For the School of Mines.....	5,919.34
For the State Normal School.....	6,359.93
For the Deaf and Dumb Asylum....	5,679.61
Total	17,958.88

This selection was also rejected by the Register and Receiver of the Missoula Land Office, on the ground that the lands selected were upon fifteen townships of Indian lands, where the State had no right to select, this ruling being based on the terms of a treaty made with the Flathead

Indians, July 16, 1855 (see 12 U. S. Statutes 975), which was ratified by the United States Senate on March 8, 1859.

From this ruling the State appealed to the Honorable Commissioner of the General Land Office, and urged the appeal on the ground that the Indians have no further claim to these lands, and that, as the lands have been opened to Homestead Entry, they should be regarded as being in the same condition as other public lands of the United States.

Assistant Commissioner Rose, of the General Land Office, affirmed the ruling of the Local Land Office, citing as authorities the second section of the Act of June 5, 1872 (17 U. S. Statutes, page 226), providing for the survey and sale to actual settlers and townsite claimants; also the Act of February 11, 1894, extending the time of payment by the settlers; also the provision "That the benefit of the Homestead Act is hereby extended to all the settlers on said lands who may desire to take advantage of the same."

Commissioner Rose further cites the first section of the Indian Appropriation Act of June 22, 1874 (18 U. S. Statutes 146), which provides for paying into the Treasury the proceeds of the sale of these lands, the same to be accounted as other moneys received from the sale of public lands.

He also quotes the Act of March 2, 1889, (25 U. S. Statutes, 871) which provides for the sale of allotments made and patented to the Indians, under the said Act of 1872, and adds: "This is all the legislation on the subject of these lands from June 5th, 1872, to the present time."

"In conclusion he says: "The said Acts of 1872 and Feb. 11, 1874, are of special nature, and are not repealed, changed or modified by statutes of a general nature providing for the disposal of the public lands. The lands are in this condition, that they may be sold to settlers and townsite claimants as provided in the Acts of 1872 and 1874, and that the settler may elect under the latter Act to obtain title under the homestead statutes. The persons entitled to enter are actual settlers and townsite claimants; the lands, to be subject to final disposal by the government, must have been settled upon or occupied as townsites. In none of its legislation has Congress exhibited an intent to dispose of the lands in any other way or in any other condition, and no such intent must be inferred. To rule that these lands are public in the sense that they may be disposed of as public lands generally, would be to interpolate into the law legislation that does not belong to it. It is not a question of what in the opinion of some, Congress ought to have enacted, but a question of what that body actually did enact. These lands were set apart for the benefit of the Indians under treaty stipulations, and since the Indians have been removed Congress has continued to exercise especial supervision over their disposal, and inasmuch as the public land laws generally, with the exceptions mentioned, have not been extended over them, the State is not regarded as entitled to select them under its grants.

For the foregoing reasons your decision is affirmed, and you will so notify said Board, allow the prescribed time, 60 days, for appeal and make due report."

A special meeting of the Board was called January 12th, 1893, immediately on the receipt of the decision of the General Land Office in this case, and the Board voted to lay the entire matter before Senator T. C.

Power, with the request that he secure such legislation as would grant to the State of Montana the privilege of selecting the valuable lands above referred to. Accordingly, copies of the entire correspondence were forwarded to Senator Power, with a letter of transmissal, under date of January 17th. On February 18th Senator Power forwarded to this office a letter from the Commissioner of Indian Affairs, containing an elaborate explanation of the XIth Article of the treaty of July 16th, 1855, between the United States and the Flathead, Kootenay and Upper Pend d'Oreilles Indians, referred to in the decision of the Commissioner of the General Land Office; also a letter from the Assistant Commissioner of the General Land Office, dated February 16th, 1893, suggesting the points which, in his opinion, it would be desirable to cover in a bill granting to the state of Montana permission to make selections within the fifteen townships reserved for the Flathead Indians.

A bill was accordingly prepared and copies were furnished to Senator Power and Representative Hartman. We understand that these bills are now pending in both Houses of Congress.

We have reviewed this case at length, both because of its importance and on account of the principles involved. We firmly believe that the State is entitled to make selections in the 15 townships mentioned, and that every effort should be made to secure to the State this land, which is among the most valuable within our boundaries.

SCHOOL ADDITION TO THE CITY OF MISSOULA.

It was early discovered that school section 16, 13 North, 19 West, was within the limits of the City of Missoula. Accordingly, in the spring of the year 1891, the Board directed George F. Brooks to execute a survey of the section, platting the south half into blocks of 20 lots each, where practicable, and the north half of the section into blocks of five acres each, with the necessary streets and alleys. This work was completed in June, 1891, and on the 16th of that month the State Board of Land Commissioners dedicated the addition, granting the streets, avenues and alleys to the public use forever, and naming the section the "School Addition" to the City of Missoula.

The State Board on August 29th directed the Board of County Commissioners of the County of Missoula to appoint three disinterested householders to appraise the whole of this addition, and on Sept. 10th appraisers were appointed to appraise the lots in the south half. The blocks of the north half were appraised in March, 1892.

Dec. 21st, 1891, a public sale of lots was held, from which, and from subsequent sales and leases, about \$15,000 have been realized. One hundred and sixty-three lots have been sold; of these 24 were sold for cash, and patents have been issued; the remainder, 139 were sold on the seven years plan, as authorized by section 23, of the Act approved March 6, 1891. Ten lots have been leased for a term of two years, at an annual rental of seven per cent of the appraised value.

August 9th the Board received an offer from George F. Brooks to act as agent of the Board in the counties of Missoula and Ravalli, without compensation or expense to the State, other than the expense of advertising his appointment. The Board accepted this offer, and forwarded to

Mr. Brooks special instructions to warn and prevent persons from building upon, removing soil from, or otherwise injuring the unoccupied lots of the "School Addition." This arrangement has proved of value, and the same policy will doubtless be pursued as other additions to the cities of the State are platted and offered for sale and lease.

HELENA SCHOOL TRACT.

In July, 1892, the northwest quarter of the southeast quarter, and the south half of the southeast quarter of section 16, 10 N. 3 W. was platted into three acre blocks, this part of the school section being within the three-mile limit of the City of Helena. It was offered for sale September 3, 1892. and a few lots were sold.

GREAT FALLS ADDITION.

That portion of section 15, 20 North, 3 East, lying north of Sun River, near the city of Great Falls, was examined by the members of the Board at the time of the sale of State lands in Cascade County, August 11th, 1893. It was decided to have this tract surveyed and platted into five acre lots, and Mr. George French was authorized to proceed with the work. The plat was received at this office and approved October 3rd.

The policy adopted in relation to State lands within the three-mile limit of the three cities above named is in accordance with the provisions of Section 43 of the Act governing the sale and leasing of State lands, and we recommend that the same course be pursued in all cases where possible, as it seems to us that a very large revenue is to be had from these sources as the population of the State increases, and the land in the vicinity of cities and large towns becomes more and more valuable.

At a meeting held July 24th it was resolved that the Board take action to secure the buildings at Fort Maginnis, to be used for such purposes as the State of Montana may, by its State Legislature, prescribe. It was further resolved that the Senator and Member of Congress be requested to procure congressional legislation which will give and grant to the State of Montana the abandoned Fort Maginnis Military Reservation for such purposes as the Legislature of Montana may by proper legislation prescribe.

In accordance with the above resolutions, Senator Power and Representative Hartman were notified of the wish of the Board, and a bill has been introduced into the House, which is now pending.

We trust that the information herein contained may prove of value and interest to yourself, to the Legislative Assembly and to the citizens of the State. Any further information regarding the details of the work of the Board will be promptly furnished on application.

J. E. RICKARDS,
President,

H. J. HASKELL,
L. ROTWITT,
E. A. STEERE,

Secretary.

R. S. BICKFORD,
Clerk of the Board.

APPENDIX.

Office of State Board of Land Commissioners.

HELENA, MONTANA, June 20, 1893.

CIRCULAR LETTER OF INFORMATION.

The State Board of Land Commissioners are prepared to sell or lease State lands in the counties of Flathead, Missoula, Ravalli, Cascade, Lewis and Clarke and Gallatin. No State lands in the other counties have yet been appraised, and owing to the failure of the Third Legislative Assembly to enact a law allowing the State Land Agent to appraise land as he examined it, no more appraising can be done for some time. The expense of the present method is so great that the board do not feel authorized to have further work done in this direction, especially in view of the fact that large areas of State lands are still open for sale and lease in the counties above mentioned.

RULES GOVERNING THE SALE OF LANDS OF THE STATE.

The board hold from time to time public sales at the county seat of the county in which the land is situated, after advertising for four weeks in some paper published at the county seat. At these sales at least 30 per cent of the purchase money must be paid, the remainder to be paid in seven annual installments, with interest at 7 per cent on the amount remaining unpaid. To guarantee the payment of this residue, a bond is required by law, to be executed within twenty-four hours from the time of purchase, said bond to be signed by two bondsmen, residents of the county in which the land is situated. The balance may be paid at any time thereafter, if the purchaser so desires, when a patent will be issued. The whole amount may be paid at the time of sale if desired. No land can be sold for less than its appraised value, and in no case for less than ten dollars per acre.

RULES GOVERNING THE LEASING OF STATE LANDS.

Land not sold is leased for a term of five years, without agreement for renewal, on a basis of AT LEAST 5 per cent of the appraised value as annual rental, in advance, first year's rent to invariably accompany the application. The board reserves the right to increase the price if in their judgment lands were appraised too low. A bond is required, as in the case of sale.

If you wish to lease, send to the board for a blank application, upon the receipt of which you are requested to fill out all the blank spaces, taking care to have the application sworn to before a notary public, and enclose the first year's rent, at the rate of 5 per cent of the appraised value. If the application is favorably acted upon by the board, duplicate leases will be sent to you, together with bond; return these properly signed, when they will be signed by the proper officials, and the original lease and the receipt for the first year's rent will be sent to you.

GENERAL RULES.

State lands are divided into four classes: Agricultural, grazing, timber, and land within the three miles limits of a town. Not more than 160 acres of agricultural land will be leased to one person or corporation; not less than one section of grazing land will be so leased; timber land is not leased, but is sold for cash. Land within the three miles limit cannot be sold, but may be leased; when platted for a townsite addition, as is the case in the Missoula School Addition, lots may be sold or leased; if sold, at least 50 per cent of the purchase money is required in advance. When leased, 7 per cent of the appraised value is charged, and the term of the lease is two years instead of five.

PREFERENCE RIGHT.

Bona fide settlers having improvements on State lands prior to the passage of the Act of March, 1891, will have preference right to buy or lease; this simply means, however, that the settler will not be obliged to outbid other persons; a bid equaling that of the highest bidder will secure the land to the owner of improvements. It is the constant aim of the board to encourage and protect the rights of genuine settlers, and at the same time to guard against the unfounded claims of those who settle on State lands for illegal purposes.

The board issues permits to persons wishing to make improvements on unappraised or partly unsurveyed State lands, except in cases where known injury to the State would result. Such improvements are in all cases made at owner's risk.

Address all communications and make checks, drafts and money orders payable to the State Board of Land Commissioners, Helena, Montana.

E. A. STEERE, Secretary.

J. E. RICKARDS, President.

FOURTH
ANNUAL REPORT

OF THE

State Board of Land Commissioners

OF THE

STATE OF MONTANA

TO HIS EXCELLENCY:
JOHN E. RICKARDS
GOVERNOR OF MONTANA

DECEMBER 1, 1894

HELENA, MONTANA
STATE PUBLISHING COMPANY
PRINTERS, BINDERS
1895



FOURTH ANNUAL REPORT

OF THE

State Board of Land Commissioners

OFFICE STATE BOARD OF LAND COMMISSIONERS, {
HELENA, Mont., Dec. 1, 1894. }

TO HIS EXCELLENCY, J. E. RICKARDS, Governor of Montana.

SIR—During the year just ended the State Board of Land Commissioners has held seventy-seven meetings. The business of the department has almost doubled since the last annual report was presented, the cash receipts for the year 1893 being \$32,453.60, while for 1894, they amounted to \$56,444.65, an increase of about 74 per cent. More inquiries for land have reached us from intending settlers than ever before, and all indications lead to the belief that an active demand for agricultural land will be seen during the coming year.

The Board has uniformly followed the practice of referring letters from inquirers outside the State to the Bureau of Labor and Agriculture, after answering the specific inquiries concerning lands owned by the State, in order that full and complete information concerning the resources of the State might be furnished. We believe that much good has been done in this way in the line of encouraging immigration and disseminating official information regarding Montana.

FINANCIAL STATEMENT

The following amounts were received during the year and turned in to the State Treasurer:

For School fund, principal.....	\$27,505 89
For School fund, interest.....	10,336 47
For University fund, interest.....	2,747 75
For Public Building fund, principal.....	706 83
For Public Building fund, interest.....	416 87
For State Normal School fund, interest.....	456 00
For School fund, principal, from U. S. Treasurer, being 5 per cent of sale of government lands in Montana for fiscal year ending June 30, 1893.....	12,531 99
Total	\$54,701 80

At the close of the fiscal year the Board had in bank, in the form of money accompanying applications pending and partial payments, \$2,136. 21, while they returned for various reasons \$365.72 by check on bank.

The following statement is taken from the Annual Report of the State Treasurer, about to be published, showing the total amounts to the credit of each fund under the control of the Board:

SCHOOL FUND, PRINCIPAL.

Balance to account for Dec. 2, 1893.		\$75,638 20
Received from escheated estates	\$ 1,778 94	
Received from 5 per cent of sale of U. S. Lands....	12,531 99	
Received from sale of State lands.....	27,505 89	41,816 82
Total to account for.....		117,455 02
Invested in Fergus County bonds	20,000 00	
Invested in Craig school district bonds.....	1,500 00	
Invested in State warrants	93,980 60	
Balance in cash on hand Dec. 1, 1894.....	1,974 42	
Total		\$117,455 02

SCHOOL FUND, INTEREST.

Balance on hand Dec. 2, 1893.....		\$17,437 91
Received from interest on bonds.....	\$ 1,305 00	
Received from interest on State warrants.....	2,227 44	3,532 44
Received from leases of State lands.....		10,336 47
Total to account for.....		31,306 82
Premium on Craig school district bonds charged off by order of Board of Land Commissioners.....	100 00	
Balance on hand in cash Dec. 1, 1894	31,206 22	
Total		\$31,306 82

UNIVERSITY FUND, INTEREST.

Balance on hand Dec. 2, 1893.....		\$ 9,493 32
Received from interest on warrants.....	\$ 136 91	
Received from leases of land	2,747 75	2,884 66
Total to account for.....		12,377 98
Invested in State warrants.....	10,266 66	
Balance on hand in cash, Dec. 1, 1894.....	2,111 32	
Total.....		\$12,377 98

NORMAL SCHOOL FUND, INTEREST.

Balance on hand Dec. 2, 1893.....	\$ 1,104 00	
Received from leases of land.....	456 00	1,560 00
Balance on hand in cash Dec. 1, 1894		\$1,560 00

97081

PUBLIC BUILDING FUND, PRINCIPAL.

Balance on hand Dec. 2, 1893.....	\$ 2,818 83	
Received from sale of land.....	706 83	
Total to account for....		3,525 66
Cash on hand to balance Dec. 1, 1894..		\$3,525 66

PUBLIC BUILDING FUND, INTEREST.

Balance on hand Dec. 2, 1893		\$954 34
Received from interest on warrants.....	12 12	
Received from lease of land.....	416 87	428 99
Total to account for....		1,383 33
Balance on hand in cash Dec. 1, 1894		\$1,383 33

INVESTMENTS OF EDUCATIONAL FUNDS.

Section 2 of an Act to amend Section 2 of an Act entitled, "An Act to provide for the selection, location, appraisal, sale and leasing of State lands," approved March 6, 1891, reads as follows:

"SEC. 2. The proceeds arising from the sale of lands granted to the State for educational purposes shall be invested, first, in bonds of the State of Montana; second, in such bonds of the several counties of the State as the Board of Land Commissioners shall deem most safe and secure; third, in bonds of school districts; fourth, in state warrants; fifth, in county warrants, provided that before any of such proceeds shall be in the bonds of any school district within the State of Montana, the said Board of Land Commissioners shall be satisfied by statements of the trustees of the school district proposing to negotiate the sale of its bonds, that the bonds to be negotiated are the only bonds issued by the said school district, and that the outstanding indebtedness of such school district does not exceed three per cent upon the valuation of the property within said district. The interest on all moneys arising from the sale or leasing of school lands shall be used for the purposes for which the grant was made.

Approved March 9, 1893."

This provision has proved an excellent one in every way. The State Board of Land Commissioners has invested from time to time the school and other educational funds under its control in State warrants, thus investing these various funds in a safe and profitable manner and keeping the State warrants at par. We append the statement of funds thus invested:

Invested during the year December 1, 1892, to November 30, 1893:

PRINCIPAL, SCHOOL FUND.

Invested in state warrants.....	\$52,012 47	
Proceeds from interest.....		\$2,081 48

336.15
19064
m

INTEREST, SCHOOL FUND.

Invested in state warrants	\$16,994 30	
Proceeds from interest		\$319 80

INTEREST, UNIVERSITY FUND.

Invested in state warrants.....	\$ 8,468 00	
Proceeds from interest.....		\$136 91

PRINCIPAL, PUBLIC BUILDINGS.

Invested in state warrants.....	\$ 2,272 86	
Proceeds from interest.....		\$12 12
Total invested in State warrants by State Board of Land Commissioners, to Nov. 30, 1893.....	79,747 63	
Proceeds from above.....		\$2,550 31

In addition to the above, \$20,000 of the School fund principal are invested in Fergus County bonds, and \$1,500 in Craig school district bonds. The interest on these bonds netted \$1,305 during the past year.

The following amounts have been invested in State warrants during the present year:

School fund, principal	\$93,980 60
University fund, interest.....	10,266 66

The interest will not be paid until about December 20, and we are therefore unable to present the amounts secured on these investments in this report. They will amount, however, to about \$3,200, in addition to \$1,305 accrued interest on bonds.

TABULATED STATEMENT OF LEASES.

FROM DECEMBER 1, 1893, TO NOVEMBER 30, 1894.

	Acres
Grazing land	3,280
Agricultural land.....	640
Total.....	4,920
Number of town lots leased, Missoula School Addition, 10.	

COUNTIES.

	Acres
Cascade.....	3,120
Lewis and Clarke.....	320
Flathead	480
Total.....	4,920
Belonging to School fund	3,440
Belonging to University fund.....	480
Total	4,920

TABULATED STATEMENT OF SALES.

FROM DECEMBER 1, 1893, TO NOVEMBER 30, 1894.

	Acres
Grazing land	320
Agricultural land.....	880
Total	1,200
Number of lots sold in Missoula School Addition, 8.	

COUNTIES.

	Acres
Ravalli	880
Lewis and Clarke.....	320
Total	1,200
Belonging to School fund, 1,200 acres.	

SELECTIONS OF LAND.

We commend the State Land Agent for the careful and conservative manner in which he is selecting lands. While it would be an easy matter to satisfy all the grants from lands now surveyed, yet such a procedure would not be to the best interests of the State.

By the Act of March 3, 1893, quoted below, the State has sixty days' preference right for selections, after the filing of plats of surveys in local land offices. This provision applies in all cases, whether the survey was made at the request of the State or not.

In this way we are enabled to select the best land as fast as surveyed, giving only genuine homestead settlers preference. The importance of this ruling is the more apparent when we consider that, by a provision of the Enabling Act the State is not allowed to sell any of the lands granted for less than \$10 per acre.

In the Act of March 3, 1893, "making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and ninety-four, and for other purposes" (Public—No. 124), the following enactment was made:

That the States of North Dakota, South Dakota, Montana, Idaho and Washington shall have a preference right over any person or corporation to select lands subject to entry by said States, granted to said States by the Act of Congress approved February twenty-second, eighteen hundred and eighty-nine, for a period of sixty days after lands have been surveyed and duly declared to be subject to selection and entry under the general land laws of the United States; and provided further, that such preference right shall not accrue against bona fide homestead or pre-emption settlers on any of said lands at the date of filing of the plat of survey of any township in any local land office of said States.

SELECTIONS, DECEMBER 1, 1893, TO NOVEMBER 30, 1894.

GRANT FOR PUBLIC BUILDINGS.

	Acres.
Jan. 9, 1894, List No. 7, Helena District.....	4,005.74
July 2, 1894, List No. 8, Helena District	1.040
July 14, 1894, List No. 9, Helena District	2,778
Aug. 31, 1894, List No. 6, Missoula District.....	2,720
Oct. 5, 1894, List No. 7, Missoula District.....	2,438.47
Total	<u>12,982.21</u>

GRANT FOR STATE NORMAL SCHOOL.

	Acres.
Oct. 5, 1894, List No. 5, Missoula District	911.80

GRANT FOR SCHOOL OF MINES.

	Acres.
Oct. 22, 1894, List No. 4, Missoula District.....	3,280

GRANT FOR AGRICULTURAL COLLEGE.

	Acres.
Aug. 31, 1894, List No. 6, Missoula District.....	2,529.63
Oct. 5, 1894, List No. 7, Missoula District.....	5,760
Total	<u>8,289.63</u>

SUMMARY.

TOTAL SELECTED FOR EACH FUND TO DATE.

	Acres.	
Grant for Public Buildings to Nov.		
30, 1893	84,207.73	
Grant for Public Buildings to Nov.		
30, 1894	12,982.21	
		97,189.94, or 53.4 per cent
Grant for School of Mines to Nov. 30,		
1893	52,552.81	
Grant for School of Mines to Nov. 30,		
1894	3,280	
		55,832.81, or 55.8 per cent
Grant for State Reform School to Nov.		
30, 1893	29,939.40	
Grant for State Reform School to Nov.		
30, 1894	none	
		29,939.40, or 59.8 per cent
Grant for State Normal School to Nov.		
30, 1893	51,562.88	
Grant for State Normal School to Nov.		
30, 1894	911.80	
		52,474.68, or 52.4 per cent
Grant for Deaf and Dumb Asylum to		
Nov. 30, 1893	26,120.42	
Grant for Deaf and Dumb Asylum to		
Nov. 30, 1894	none	
		26,120.42, or 52.2 per cent
Grant for Agricultural College to Nov.		
30, 1893	62,577.33	
Grant for Agricultural College to Nov.		
30, 1894	8,289.63	
		70,866.96, or 50.6 per cent
		Acres.
Total selected to Nov. 30, 1894		332,424.21
Yet to be selected		289,575.79
Total grant		622,000.00

It should be remembered, however, that the foregoing lists do not fully represent the work of the State Land Agent in selecting lands for the various grants, for the reason that the State is in many cases obliged to relinquish lands after the selections have been made by the local land offices, for various reasons. And in other cases, where the State Board does not relinquish, contests are brought either in the local land offices, or before the Commissioner of the General Land Office. The following is a list of the lands lost from the several grants to date:

	Acres.
Public Buildings	896.71
State Normal School	912.99
School of Mines	753.20
State Reform School	320.00
Deaf and Dumb Asylum	159.82
Total	3,042.72

There are also several cases where entire lists, involving several thousand acres, are rejected for technical reasons. .

Reference was made in the third annual report to a bill introduced by our representative in Congress, allowing the State of Montana to select from the fifteen townships in the Bitter Root valley, which had been hitherto reserved for homestead settlers and townsite claimants. This bill was signed by the President August 3, 1894. However, such a long period of time had elapsed between the presentation of the bill and its final passage that about 80 per cent. of this valuable land was taken by homestead claimants, and the State secured only 9,370.87 acres.

While the State Board of Land Commissioners does not wish to interfere in any manner with genuine homestead settlers, we call attention to the fact referred to in the report of the State Land Agent, a statement which we thoroughly endorse, that the large lumber companies, and, in some cases, professional men are in the habit of filing homestead entries just in advance of the filing of plats, where they have no intention of complying with the spirit or the letter of the law. Large losses to the State of valuable land are caused annually in this way. Several contests have been commenced by the Attorney General in behalf of the Board, but it is difficult to secure evidence where neighbors and friends are leagued together for the purpose of defrauding the Government and the State.

We present herewith copy of the Bill above referred to:

"An Act authorizing the State of Montana to make selections from certain public lands.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it shall be lawful for the State of Montana to select as a part of the lands granted the said State under the provisions of an Act entitled 'An Act to provide for the division of Dakota into two States, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and State governments, and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States,' approved February twenty-second, eighteen hundred and eighty-nine, and an Act entitled, 'An Act to amend sections twenty-two hundred and seventy-five and twenty-two hundred and seventy-six of the Revised Statutes of the United States, providing for the selection of lands for educational purposes in lieu of those appropriated for other purposes,' approved February twenty-eighth, eighteen hundred and ninety-one, any of the lands in the Bitter Root valley, lying above the Lo Lo Fork of the Bitter Root River, mentioned and described in an Act entitled, 'An Act to provide for the removal of the Flathead and other Indians from the Bitter Root valley in the Territory of Montana,' approved June fifth, eighteen hundred and seventy-two; provided, however, that no existing rights to any of the said lands initiated under any of the laws of the United States shall be invalidated by this Act."

Approved August 3, 1894.

INSTRUCTIONS FROM GENERAL LAND OFFICE.

Letter "K," January 19, 1894, called attention to the fact that the grants for the Agricultural College and public buildings were under two sections. Sections 12 and 16 of the Granting Act provide that selections be made for these lands in legal subdivisions of not less than 160 acres, while section 17 makes no restrictions as to the size of the subdivisions. This necessitated a careful revision of lists, a matter which has now been satisfactorily adjusted. The letter referred to concludes: "Hereafter you will require the Board to specify the sections of the Granting Act under which they make their selections, and you will receive no selections under the grants provided in sections 12 and 16 that are not in legal subdivisions of not less than one-quarter section."

HELENA, Mont., June 25, 1894.

HON. JOHN S. M. NEILL, U. S. Surveyor General, Helena, Mont.

DEAR SIR: In addition to requests heretofore made by the Board for survey of the unsurveyed lands within the limits of this State, we have the honor to request that the following described lands be surveyed at as early a date as possible, in order that the State may make selection thereof, to apply on the grants made to the State of Montana, by Act of Congress approved Feb. 22, 1889, namely: West half of Tp. 17 N., 14 W.; east half of 17 N., 15 W.; all of 13 N., 15 W.; all of 32 N., 19 W.; all of 32 N., 20 W.

As a large portion of these townships are within the forty mile limit of the Northern Pacific railroad grant, and as there are many squatters on them, and for the further reason that it is difficult to decide in advance what the character of certain tracts will be when surveyed, in a mountainous, timbered country, it is impossible to state definitely how many acres of said tracts the State will select, but we will agree, in behalf of the State, to select all that is valuable for either soil or timber.

Respectfully,

[Signed]

J. E. RICKARDS, President,

H. J. HASKELL,

L. ROTWITT,

E. A. STEERE, Secretary.

Members State Board of Land Commissioners.

REQUESTS FOR SURVEYS.

HELENA, Mont., Oct. 13, 1894.

HON. JNO. S. M. NEILL,

U. S. Surveyor General for Montana, Helena, Mont.

DEAR SIR: In addition to requests heretofore made by this Board for the survey of unsurveyed lands within the limits of this State, we have the honor to request that the following described lands be surveyed at as early a date as possible, in order that the State may make selection

thereof, to apply on the grants made to the State of Montana by Act of Congress approved Feb. 22, 1889, namely: Those parts of Flathead county which will be, when surveyed, townships 31, 32 and 33 north of range 20 west; 32 north of range 19 west; 29, 30 and 31 north of range 29 west.

Respectfully,

J. E. RICKARDS, President,
H. J. HASKELL,
L. ROTWITT,
E. A. STEERE, Secretary.

The following extracts from the annual instructions to Surveyors General have just been furnished this office, and as they are of unusual importance we quote in full. It will be seen that several precedents have been established by these rulings, which will be of value in expediting the survey of land in Montana for State selections:

"The said appropriation act of August 18, 1894, also provides as follows:

"That it shall be lawful for the Governors of the States of Washington, Idaho, Montana, North Dakota, South Dakota and Wyoming to apply to the Commissioner of the General Land Office for the survey of any township or townships of public land then remaining unsurveyed in any of the several surveying districts, with a view to satisfy the public land grants made by the several Acts admitting the said States into the Union to the extent of the full quantity of land called for thereby; and upon the application of said Governors the Commissioner of the General Land Office shall proceed to immediately notify the Surveyor General of the application made by the Governor of any of the said States for the withdrawal of said lands, and the Surveyor General shall proceed to have the survey or surveys so applied for made, as in the cases of surveys of public lands; and the lands that may be found to fall within the limits of such township or townships, as ascertained by the survey, shall be reserved upon the filing of the application for survey from any adverse appropriation by settlement or otherwise, except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from the date of the filing of the township plat of survey in the proper district land office, during which period of sixty days the State may select any of such lands not embraced in any valid adverse claim, for the satisfaction of such grants, with the condition, however, that the Governor of the State, within thirty days from the date of such filing of application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from the first publication, in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such township or townships, giving notice to all parties interested of the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for, and after the expiration of such period of sixty days any lands which may remain unselected by the State, and not otherwise appropriated according to law, shall be subject to disposal under general laws as other public lands; and provided further, that the Commissioner of the General Land

Office shall give notice immediately of the reservation of any township or townships to the local office in which the land is situate of the withdrawal of such township or townships for the purpose hereinbefore provided; and provided further, that the Governors of the several States herein named are authorized to advance money from time to time for the survey of the townships withdrawn at such United States depository as may be designated by the Commissioner of the General Land Office, and the moneys so advanced shall be reimbursable. The foregoing provisions shall be applicable to Utah when admitted as a State into the Union, and a Governor is duly inaugurated and acting."

In regard to the surveys to be made for the purpose of enabling the State of Montana to make selections of land granted to her by the Act of February 22, 1889, you are advised that when the Governor of the State shall make application to the Commissioner of the General Land Office, as provided in the paragraph of the appropriation act, last above quoted, for the survey of any township or townships of public land, non-mineral in character, and subject to entry under the public land laws, this office will immediately notify the Surveyor General of such application in order that prompt measures may be taken for the survey of the township or townships named in such application, and, as required by law, the Commissioner will at once notify the local land officers for the land district in which the township or townships, the survey of which is so applied for are situated, that the lands falling within the limits thereof are reserved from any adverse appropriation by settlement or otherwise except under rights that may be found to exist of prior inception for a period extending from the date of filing of the application for survey until the expiration of sixty days from the date of filing of the township plat of survey in the proper district land office, during which period of sixty days the State may select any of such lands not embraced in any valid adverse claim, for the satisfaction of the grants made by said act of February 22, 1889.

The apportionment for surveys in your district, herein made, is applicable to the survey of lands embraced in applications made by the State under the law above quoted, even though there are no settlers in the townships named in the application, and the land is not adapted to agriculture; care, however, should be exercised that no undue proportion of the apportionment be used for the survey of townships applied for by the State authorities, to the exclusion of the survey of townships occupied by settlers.

When the State applies for the survey of isolated townships far from existing lines, and not within the range and progress of settlement, the expense, as a rule, should not be charged to the apportionment made in your district. The law authorizes the Governor of the State to advance money from time to time for the survey of the townships withdrawn (moneys so advanced to be reimbursable), and when a compliance with State applications for survey would require the expenditure of a larger share of the apportionment than could, with due regard to the interests of settlers upon the public lands, be devoted to such a purpose, or whenever the amount of the apportionment shall be covered by surveying contracts made thereunder the Governor may be called upon to advance the necessary funds as authorized by the said act of August 18, 1894.

REGISTER OF THE STATE LAND OFFICE.

In the second and third annual reports of the Board we recommended the creation of the office of Register of the State Land Office, and in view of the rapid increase of the volume of business of this department we again call your attention to the subject, with the hope that you may recommend the creation of such an office in your forthcoming message to the Legislature.

When we consider that only a small percentage of the land to which the State of Montana is entitled has yet been offered for sale or lease, and that one hundred and ninety leases, and one hundred and forty-three certificates of purchase, all requiring annual payments, have been issued, it will be readily seen that the work of this office is of a cumulative nature, and that the volume of business will increase much faster than proportionately to the growth and development of the State. Even at the present time it is frequently impossible for the Board to hold meetings often enough to transact business promptly. The consideration of applications for lease and purchase is some times delayed several weeks on account of the pressure of official business from other directions. Correspondence is often necessary after an application has been considered, papers are to be sent out for signature, and when the applicant receives his final documents, the season during which the desired land may be most valuable to the applicant may have passed.

With the small office force under our charge it has been impossible to carry out some of the provisions in the law governing this department, especially those relating to a complete record and description of the lands selected. Section 19 of the Act entitled, "An Act to provide for the selection, etc., of State lands," reads as follows:

"When said lands have been selected for the respective purposes mentioned in the Act of Congress, approved Feb. 22, 1889, granting lands to the State of Montana, and the title of the same assured to the State, the State Board shall cause to be prepared a complete set of plats to the State lands, which plats shall be of a permanent character, and shall also prepare a set of books which shall show the character of the soil, grass, timber, water, the source and supply of water for irrigation, the presence of stone, lime or any useful mineral production, and, in general, all facts which may affect the value of the lands, and shall show on the plats which lands have been selected under each specific grant of the United States, and for what particular purpose the same is selected; and shall also show whether the lands belong to the 1st, 2nd, 3rd or 4th division mentioned in Section 1 of Article 17 of the Constitution of the State of Montana, and when any reclassification of said lands shall be made, the plats and books shall be changed so as to show the reclassification."

Such a classification would be of great value in determining the price of lands offered for sale, independent of the values set by appraisers. This has been shown by some of the sales during the past year, wherein the Board have been able to secure about \$2,500 more than the price fixed by the appraisers, by the aid of hand maps and reports made by the State Land Agent or his assistants. Classifications such as are

called for by the section above quoted would entail a great amount of labor, but the results would more than compensate the expense incurred by additional clerical force.

Another way in which a Register of the State Land Office could increase the revenues of the State would be by forcing parties occupying State lands without authority to purchase, lease or vacate. There are probably ten thousand acres at the present time occupied by trespassers, who should receive the attention of such an officer until the desired result is effected.

Again, the delays arising in the consideration of leases sometimes result in the withdrawal of the application, and consequent loss of revenue to the State. As the volume of business increases, such delays will necessarily occur more frequently, and will become a still more serious matter than at present.

The creation of the office of Register and the passage of a bill allowing the State Land Agent to appraise lands are supplementary measures, and we strongly urge their adoption. A Register with powers defined by law, covering in general the points we have named, and a State Land Agent with the increased authority recommended, would be able to carry on the business of the Land Department to the greatest possible advantage, and with the least expense to the State.

RECOMMENDATIONS.

The Board is frequently hampered in the consideration of applications for lease and sale by the lack of detailed reports of the various sections of land owned by the State. We have on file, however, a set of hand maps describing forty-five school sections in the Bitter Root Valley, and of several school and university sections in the Flathead Valley, which have proved to be of great value. We recommend that the State Land Agent, or assistants under his direction, be ordered to make similar hand maps and descriptions of the school sections in Cascade County at once, and of all other State lands now open for sale and lease. The report of the appraisers for Cascade County was defective, in that almost no mention was made of improvements existing at the time of appraisal, and a number of the school sections were omitted from the list of appraisals. We trust that a full set of such maps, with notes by the State Land Agent, may be secured and filed in this office at the earliest possible day.

A law should be passed defining the rights of owners of improvements on lands leased from the State, at the expiration of lease. The only provision now in force relating to the subject is to be found in Section 50 of the Act approved March 6, 1891, which reads as follows: "All occupants or settlers having improvements on grazing lands, and who do not wish to lease the same, shall have the privilege of disposing of or recovering such improvements at any time within ninety (90) days from the date of the lease." As we said in last year's report, the minimum price for the sale of lands was fixed by the Enabling Act at \$10 per acre,

much more than most land in the State is now worth, and the result has been that much of the land offered for sale has been taken under lease for terms of five years. Lessees have, in nearly all cases, put permanent and valuable improvements on the land they have leased, and their rights should be fully defined by statute, not only as a matter of justice, but in order to increase the number of lessees, and thus the revenues to the State.

In connection with our recommendation for the creation of the office of Register of State Lands, we wish to urgently recommend the passage of a bill giving the State Land Agent authority to appraise lands. Under the present law, your Board deem it unwise and impracticable to order further appraisements, except in rare cases, for the reason that the method now prescribed is unreasonably expensive, slow and inaccurate. The Boards of County Commissioners now appoint the Boards of Appraisers, who must be householders, and who are often unconsciously influenced by local interests in estimating values, and who, from the nature of the case, are not so well acquainted with the value of lands in Montana as the State Land Agent, who is familiar with all parts of the State.

If such a law were passed, and the office of Register of the State Land Office were created, these two officers could expedite business to a very great degree and increase the revenues of the State many thousands of dollars each year. We know of no method which would so soon increase the funds of the State, and the funds belonging to the various educational institutions, as the policy here outlined.

TIMBER.

The Assistant of the State Land Agent reported, August 24th, that he had examined Section 16, Township 14 N., R. 19 W., and found that Adam Lalonde had cut 55 cords of wood from the unsurveyed north half. The Board voted to demand stumpage immediately at the rate of 50 cents per cord.

In relation to the reported depredations on timber land in the vicinity of Bozeman, the Assistant of the State Land Agent recommended that the best method would be to cut the land into small lots and sell it, as it would be otherwise impossible to preserve the timber.

The State Land Agent reported on November 14th that timber was being cut from parts of Section 26, Township 14, north of range 9 west, and that one Cunningham, in the interest of the Big Blackfoot Milling Company, had cut between 200,000 and 300,000 feet of saw lumber from parts of Section 36, Township 14, north of range 17 west. The Land Agent was authorized to send a man to scale the timber cut, and to collect whatever amount seemed to the Land Agent to be proper.

PARTIAL PAYMENTS.

Early in the year the Board received a petition from lessees in the Flathead Valley, asking that the payment of annual rentals, due in the then coming spring, be deferred until fall, on account of the scarcity of money and the failure of crops in 1893. Many letters of similar purport from all parts of the State where the Board has issued leases were received. The matter was carefully considered and the policy was adopted of accepting partial payments, however small, at any and all times. The President answered all requests for postponement of payments to the effect that although the Board had no desire to unduly press payment of these claims, yet they could not legally grant definite extensions of time, and that the Board was ready to receive and acknowledge any sum as partial payment, sending State Treasurer's receipt as soon as payments were completed.

PERMITS TO MAINTAIN FENCE.

In some cases the Board has received applications to lease land which had not been appraised. In other cases parties were reported to be occupying unappraised State lands. On another page we have called attention to the expense and unsatisfactory results attending the present method of appraisals, and as regular leases can not be issued on unappraised land, the Board has, during the past year, adopted the plan of issuing permits to maintain fence on such lands, at an annual rental determined after careful investigation. Parties holding such permits will be given preference right in all cases when the land is advertised and offered for sale or lease. This method has already resulted in a considerable increase of revenue from sources which would otherwise yield nothing for years to come. As fast as the occupancy of unappraised land comes to the notice of the Board, such occupants are notified to apply for permit or vacate the land. The Board will be glad to receive information concerning parties occupying State lands without authority, and will give the matter prompt attention.

During the past year permits have been issued covering 3,250 acres.

MISSOULA SCHOOL ADDITION.

On April 13th the President was authorized to publish a notice to the effect that all parties living on the Missoula School Addition, who had not leased or purchased the lots which they were then occupying, must vacate on or before June 1, 1894, or make application to this office to lease or purchase.

Notice was published in the "Missouliau," in accordance with the above, and resulted in a considerable increase of lots sold and leased.

In preparing this report we have endeavored to eliminate unnecessary details and to present only that which will be of value in showing the status of the land grant and the funds belonging thereto, a summary of the work of the State Land Agent in selecting lands, and of the Board in perfecting titles, the present needs of the department, and the work accomplished during the year in the leasing and sale of State lands.

J. E. RICKARDS, President,

H. J. HASKELL,

L. ROTWITT,

E. A. STEERE, Secretary.

R. S. BICKFORD, Clerk.

